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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,032	06/08/2001	Tom Charles McCartney	626/002	1617
7590 09/27/2004			EXAMINER	
Thomason, Moser & Patterson, LLP Suite 100 595 Shrewsbury Avenue Shrewsbury, NJ 07702			AZAD, ABUL K	
			ART UNIT	PAPER NUMBER
			2654	

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/878,032

**Applicant(s)**

MCCARTNEY ET AL.

**Examiner**

ABUL K. AZAD

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/26/01</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 1-34 are pending in this Office Action.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 17-21, 25-29, 33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Ellozy et al. (US 5,649,060).

As per claim 1, Ellozy teaches, "method for constructing a digital talking book from text data and audio data", said method comprising the steps of:

"accessing a first synchronization file that identifies a plurality of synchronizable elements of the text data" (col. 3, lines 34-61);

"accessing a second synchronization file that identifies a plurality of time points of the audio data" (col. 3, lines 32-40); and

"building links between said identified synchronizable elements of the text data with said identified time points of the audio data" (col. 4, line 49 to col. 4, line 2).

As per claim 2, Ellozy teaches, "inserting a graphical representation for each of said identified synchronizable elements of the text data" (col. 5, lines 5-8, here video data is a graphical representation).

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As per claim 3, Ellozy teaches, "inserting a graphical representation for each of said identified time points of the audio data" (col. 5, lines 5-8, here video data is a graphical representation).

As per claim 4, Ellozy teaches, "wherein said graphical representation indicates whether its associated synchronizable element is synchronized" (col. 5, line 21 to col. 6, line 47).

As per claim 5, Ellozy teaches, "displaying both of said identified synchronizable elements of the text data and said time points of the audio data on a display" (col. 7, lines 13-20).

As per claims 17-21, 25-29, 33 and 34, they are interpreted and thus rejected for the same reasons set forth in the rejection of claims 1-5.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 7, 22, 23, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellozy et al. (US 5,649,060) as applied to claims 5, 21 and 29 above, and further in view of well-known prior art.

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As per claims 6 and 7, Ellozy teaches a Recorded play back (Fig. 3, element 19) and a monitor (Fig. 3, element 62) and by using a speech recognizer a text can be indexed and display on the monitor (col. 7, lines 13-20).

As per claim 6, Ellozy does not explicitly teach to playback audio by clicking the corresponding text data. Official Notice is taken on the playback audio by clicking the corresponding text data. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use text data to playback the corresponding audio because one ordinary skill in the art would readily recognized that provide corresponding audio for convenience of the user to listen the audio without distracting other work.

As per claim 7, Ellozy teaches displaying the associated text (col. 7, lines 13-20). Ellozy does not explicitly teach to highlight the text. Official Notice taken on the highlighted the text. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to highlight the so the one can easily see the corresponding text.

As per claim 22, 23, 30 and 31, they are interpreted and thus rejected for the same reasons set forth in the rejection of claims 6 and 7.

6. Claims 8-16, 24 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellozy et al. (US 5,649,060) as applied to claims 5, 21 and 29 above, and further in view of Van Thong et al. (US 6,442,518).

As per claims 8-16, 24 and 32, Ellozy does not explicitly teach, "performing an editing function to adjust the synchronization between said identified synchronizable

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elements of the text data with said identified time points of the audio data". However, Van Thong teaches, "performing an editing function to adjust the synchronization between said identified synchronizable elements of the text data with said identified time points of the audio data" (col. 4, line 62 to col. 5, lines 56). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Van Thong's teaching in the invention of Ellozy because Van Thong teaches his invention provide a better alignment with closed caption data with the audio data to see corresponding text at the same time of audio produce.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(703) 305-3838**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at **(703) 305-9645**.

Any response to this action should be mailed to:

**Commissioner for Patents**

**P.O. Box 1450**

**Alexandria, VA 22313-1450**

Or faxed to:

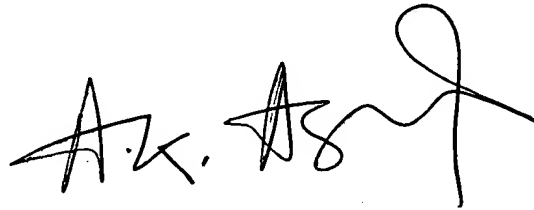
**(703) 872-9314**

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(For informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 2121 Crystal Drive, Arlington,  
VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should  
be directed to the Technology Center's Customer Service Office at telephone number  
**(703) 306-0377.**

A handwritten signature in black ink, appearing to read 'A.K. Azad', with a large, stylized flourish at the end.

Abul K. Azad

September 17, 2004